



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

NOTES OF CASES.

Health Ordinance—Liability of Inspector for Condemnation of Sound Food—Ordinances of the City of Richmond.—The city of Richmond has an ordinance requiring the food inspector to condemn and destroy such food, fish or fowl, etc., as in his opinion is "unwholesome and unfit for human food." In the case of *Evans & Sharp v. Kelly* (Food Inspector), the hustings court of Richmond decided that where food is condemned without notice to the owner and opportunity to be heard, there is a personal liability on the officer condemning the food if the food is actually sound, and that the burden of proof is on the inspector to show that the food was unwholesome, etc. The opinion of the court was founded on the case of *Miller v. Horton*, 152 Mass. 540, 26 N. E. 100, 23 Am. St. Ry. 850, in which Justice Holmes (now of the United States supreme court), in delivering the opinion of the court, held that the legislature may authorize the destruction of such property without a hearing beforehand and without compensation to the owner, but that the decision of ex parte officers can not deprive the owner of a right to be heard in a suit against the officers, and that if the owner on such hearing proves that the property was not in fact a nuisance, the owner has a right of recovery against the officer. This case is followed by the supreme court of Illinois in the case of *Pearson v. Zehr*, 138 Ill. 48, 29 N. E. 854, 32 Am. St. Rep. 113, where it was decided that the fact that the officers acted in good faith, exercising his best judgment after careful investigation and examination, did not relieve him from personal liability, and that to permit officers to determine ex parte that property must be condemned and destroyed without imposing on the officer the burden of establishing affirmatively that public welfare required such condemnation and destruction, would be a palpable violation of the constitutional provision that no person shall be deprived of property without due process of law. To the same effect is *Freund on Police Power*, in which it is said that the rightfulness of the destruction of the property presupposes that the condition of the property is as a matter of fact harmful or objectionable, and that the ex parte finding of the officers does not determine the fact conclusively against the owner. "If he can not get a hearing in advance, he must get it afterwards; that is, he has a right to bring an action for the destruction of his property and the authorities who are sued must justify their act." Sec. 521.

Negotiable Instruments—Va. Code, 1904, § 2841a.—The supreme court of Tennessee in the recent case of *Ford v. Brown*, 1 L. R. A. (N. S.) 188, decided that under the negotiable instruments act, which is the same in Virginia as in Tennessee, a purchaser of an interest bearing certificate of deposit, payable to and endorsed by one as trustee, is prima facie and presumptively charged with actual knowl-

edge of the trustee's want of authority to dispose of the paper for his own benefit.

Wills—Attestation in the Presence of Testator—Va. Code, 1904, § 2514.—It is well established that in Virginia an attestation of a will not made in the same room with the testator is prima facie not an attestation in his presence; but the presumption may be repelled by showing that from the position actually occupied by the testator he could plainly see the act of attestation. *Moore v. Moore*, 8 Grat. 307; *Nock v. Nock*, 10 Grat. 106; *Young v. Barner*, 27 Grat. 105. But the question arises, when the attestation is in another room, out of the range of the testator's vision, whether the defect can be cured by subsequent ratification and approval of the testator. This question was considered and decided in the negative by the supreme court of Illinois in *Calkins v. Calkins*, 1 L. R. A. (N. S.) 393. 216 Ill. 458.

Contracts—Mutuality.—A written contract, signed by both parties, appointing plaintiffs defendant's exclusive agents to sell the latter's product, is held, in *Emerson v. Pacific Coast & N. Packing Co.* (Minn.) 1 L. R. A. (N. S.) 445, not to be wanting in mutuality so as to prevent an action for damages for its breach.

Contracts—Rescission—Restitution.—The general rule requiring a party seeking to rescind a contract for nonperformance by the other to restore or tender back what has been received from the latter, is held, in *Timmerman v. Stanley* (Ga.) 1 L. R. A. (N. S.) 379, not to apply where one party agreed to teach another a certain thing, and, after beginning the course of instruction, refused to proceed further.

Corporations—Liability of Promoters.—One who organized a corporation for the transaction of his personal business is held, in *Donovan v. Purtell* (Ill.) 1 L. R. A. (N. S.) 176, to be personally liable for money received by him for investment, in return for which he delivered a worthless obligation of the corporation.

Corporations—Stock and Stockholders.—A stockholder, who was also a secretary, of a corporation, is denied, in *Boulden v. Stilwell* (Md.) 1 L. R. A. (N. S.) 258, the right to recover against other officers for representations by which he was induced to dispose of his stock at a loss.

Witnesses—Privilege of Refusing to Testify.—The right of a witness to claim the constitutional privilege against self-incrimination is denied in *State v. Jack* (Kan.) 1 L. R. A. (N. S.) 167, where, by the terms of a statute, the immunity afforded is coextensive with the constitutional privilege of silence.